



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
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Candace Havens  
Director

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**MEMORANDUM**

Public Hearing Date:	June 14, 2011
Land Use Action Date:	July 19, 2011
Board of Aldermen Action Date:	September 2, 2011
90-Day Expiration Date:	September 12, 2011

DATE: June 10, 2011

TO: Board of Aldermen

FROM: Candace Havens, Acting Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning  
Alexandra Ananth, Senior Planner ET

SUBJECT: **Petition #150-11**, GUHAN SUBRAMANIAN, for a Special Permit/Site Plan Approval to alter a nonconforming structure by locating a home business use in an existing detached carriage house and to waive 4 required parking stalls at **43 FAIRMONT AVENUE**, Ward 1, Newton, on land known as SBL 13, 11, 5, containing ≈33,159 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-8(c)(11)d) of the City of Newton Rev Zoning Ord, 2007.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



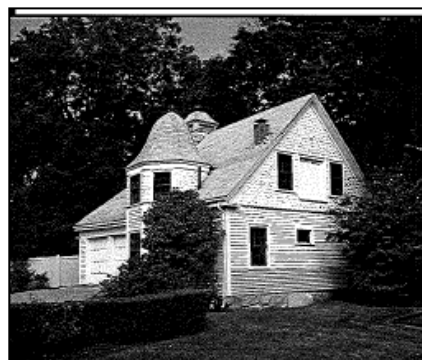
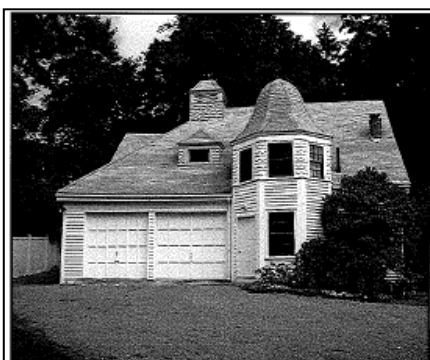
### **EXECUTIVE SUMMARY**

The subject property is located at 43 Fairmont Avenue and consists of a 33,159 square foot lot. The lot is located in a Single Residence 2 zone and consists of a large single-family dwelling and a detached carriage house. The petitioner is proposing to restore the carriage house for use as both a home business and garage. Both the home and the carriage house are listed on the National Register of Historic Places.

The petitioner is a professor and has a negotiations consulting business, which he plans to run out of the carriage house. The petitioner has stated that clients and employees will rarely visit the premises. The office in the carriage house will simply contain a desk with work and storage space for him. The carriage house is currently in disrepair though it is used as a two-car garage and storage area. The renovation does not involve changes to the exterior except for modifications to three windows, replacement of the garage doors, and adding some glazing within the hay door interior to allow additional natural light into the second-floor area.

The carriage house is currently nonconforming with regard to the rear setback, building height, and maximum ground floor area. Although the petitioner is not proposing any changes to the footprint of this structure, in order to alter an existing nonconforming structure to allow for a substantially different use, the applicant must obtain a special permit. In addition, the location of a home business in a detached accessory structure requires a special permit. Finally, a home business must provide one parking stall per 200 square feet of floor area used by the home business (except that the petitioner can reduce that total by one parking space for a home business), plus two stalls for the single-family house, for a total of eight required parking spaces for both uses on the property. Submitted plans show four compliant parking stalls on-site therefore the petitioner must obtain a special permit to waive four required parking stalls.

The Newton Historical Commission and the Planning Department have become increasingly concerned with the deterioration of unused carriage houses, and finding an economically viable use for such buildings is essential to their preservation. The Planning Department believes that a low-intensity home business use that will help preserve the carriage house without having adverse impacts on the surrounding neighborhood is appropriate on this large lot.



I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether:

- The use of this nonconforming structure as a home office will be substantially more detrimental to the neighborhood
- The location of a home business in the accessory building is appropriate and will not adversely affect the neighborhood, and
- Compliance with the parking regulations is practicable and whether the proposed parking will meet the needs of the residence and home business.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on the north side of Fairmont Avenue. It is located within a Single Residence 2 District where older mostly single-family residences on generous sized lots characterize the neighborhood.

B. Site

The 33,159 square foot lot is currently improved with a Queen Anne-style house and carriage house listed on the National Register of Historic Places. The carriage house is located in the northwest corner of the lot, close to the rear lot line. Parking for the subject property currently occurs in the carriage house (two stalls) as well as in the long driveway. Various heights of fence run along the side and rear property lines. The carriage house complements the Queen Anne-style home on the property and its historic character is very much intact. The carriage house is approximately 1,930 total square feet on 1½-stories.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to locate his negotiations consulting business in the carriage house after extensive restoration. The petitioner has stated that rarely will customers, clients, or employees be on the premises; the office in the carriage house will simply contain a desk with work and storage space for him. The two-car garage portion of the structure will remain approximately 600 square feet with approximately 1,300 square feet for office space between the first and second floors. No changes to the use of the single-family residence are proposed.

B. Building and Site Design

The petitioner is proposing to restore the existing carriage house for use as both a garage and office. The project involves no changes to the exterior except the replacement of all windows including minor adjustments to the location and size of three windows, replacement of the garage doors, and the addition of some glazing within the hay door interior to allow more light into the second floor.

C. Parking and Circulation

The carriage house will continue to serve as a two-car garage. The petitioner is also showing two exterior parking stalls in the long driveway and is seeking a waiver of four required parking stalls. The petitioner has stated that rarely, if ever, will he have visitors to his office and there is sufficient parking in the existing driveway to occasionally accommodate additional vehicles.

D. Landscape Screening

The petitioners were not required to submit a landscape plan as part of their application. There are numerous large trees on the lot and fencing along portions of the side and rear lot lines.

IV. TECHNICAL REVIEW

A. Technical Considerations.

The carriage house is currently nonconforming with regard to the rear setback, building height, and maximum ground floor area. Although the petitioner is not proposing any changes to the footprint of this structure, in order to alter an existing nonconforming structure to allow for a substantially different use, the applicant must obtain a special permit. In addition, the location of a home business in a detached accessory structure requires a special permit. Finally, a home business must provide one parking stall per 200 square feet of floor area used by the home business (minus one stall), plus two stalls for the single-family house, for a total of eight required parking spaces for both uses on the property. Submitted plans show four compliant parking stalls on-site; therefore, the petitioner must obtain a special permit to waive four required parking stalls (**ATTACHMENT "A"**).

B. Newton Historical Commission.

The Newton Historical Commission has reviewed and approved plans and supports this petition to preserve the historic carriage house. The petitioner has applied for rehabilitation tax credits from the Massachusetts Historical Commission (MHC) to offset the cost of restoring the carriage house. The Newton Historical Commission wrote two letters of support to MHC highlighting how vulnerable historic outbuildings are especially when they go unused. The Newton

Historical Commission believes that finding a use for these outbuildings is essential to their survival and has consistently supported their re-purposing as offices, studios, and accessory apartments. (**ATTACHMENT "E"**)

C. Engineering Review.

The Associate City Engineer has reviewed submitted plan and notes that an updated site plan with proposed water and sewer connections will be required prior to the issuance of a building permit (**ATTACHMENT "B"**).

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioners are seeking the following reliefs:

- Section 30-21(a)(2)b), for the alteration of a nonconforming structure to provide for its use in a substantially different manner
- Section 30-8(c)(11)d), for a home business in a detached accessory building
- Section 30-8(c)(11)e), to waive four required parking stalls
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permits

VI. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS**

- ATTACHMENT A:** ZONING REVIEW MEMORANDUM DATED MAY 5, 2011  
**ATTACHMENT B:** ENGINEERING DIVISION MEMORANDUM DATED  
**ATTACHMENT C:** ZONING MAP  
**ATTACHMENT D:** LAND USE MAP  
**ATTACHMENT E:** NEWTON HISTORICAL COMMISSION LETTER  
**ATTACHMENT F:** DRAFT BOARD ORDER



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**(ATTACHMENT "A")**

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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: May 5, 2011

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning ET

Cc: David Fontenot, designer representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to allow a home business in a detached accessory structure

Applicant: Guhan Subramanian	
Site: 43 Fairmont Avenue	SBL: 13011 0005
Zoning: SR2	Lot Area: 33,159 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with a home business in detached accessory structure

### Background:

The property at 43 Fairmont Avenue consists of a 33,159 square foot lot located in the SR2 zone improved with a single-family dwelling and a detached historic carriage house. Both the carriage house and the main house are listed on the National Historic Register. The applicant proposes to restore the carriage house as a garage and home office. The applicant's plans have received the support of the Newton Historical Commission.

The following review is based on plans and materials submitted to date as noted below.

- Architectural plans by David Fontenot, designer and contractor, dated 1/08/11, including:
  - D1: Existing Conditions First Floor Plan
  - D2: Existing Conditions Second Floor Plan
  - A1: Proposed 1<sup>st</sup> Floor Plan
  - A2: Proposed 2<sup>nd</sup> Floor Plan
  - A3: Proposed Stair, Section View
  - A5: ½ Story Calculation
- Site plan, signed and stamped by Bruce Bradford, surveyor, dated 3/22/11
- Revised site plan, signed and stamped by Bruce Bradford, surveyor, dated 4/14/11

- Letter of support from Newton Historical Commission, signed by Brian Lever, Senior Preservation Planner, dated 5/5/10.
- Letter attesting the total area to be used for the home business use, signed by Dave Fontenot, 4/13/11

#### ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see Table 1 below). The applicant proposes no changes in the footprint of either the main structure or the carriage house. The carriage house is currently nonconforming with regard to the rear setback, building height, and maximum ground floor area (see Table 2 below). In order to alter an existing nonconforming structure to allow for a substantially different use, the applicant must obtain a special permit per 30-21(a)(2)b).

Table 1 – Density and Dimensional Controls for Lot

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	33,159 square feet	No change
Frontage	80 feet	185 feet	No change
FAR	.30	.11	No change
Max. Lot Coverage	30%	10.9%	No change
Min. Open Space	50%	82%	81%*

\*The applicant's plan shows a small increase in the width of the driveway to accommodate an additional required parking stall.

Table 2 – Density and Dimensional Controls for Accessory Structure

SR2 Zone	Required/Allowed	Existing	Proposed
Max. ground floor area	700 square feet	<b>1,259 square feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	152.2 feet	No change
• Side	5 feet	11.4 feet	No change
• Rear	5 feet	<b>1.7 feet</b>	<b>No change</b>
Building Height	18 feet	<b>18.4 feet</b>	<b>No change</b>
Maximum Stories	1.5	1.5	No change

2. The applicant proposes to locate a home office for his professorial duties in the renovated carriage house. This office meets the definition of "home business" in Section 30-1 of the Zoning Ordinance. Section 30-8(c)(11)d) allows a home business to be located in a detached accessory structure by special permit. Therefore, the applicant must obtain a special permit from the Board of Aldermen to locate his home business as proposed.
3. A home business must provide, per Section 30-8(c)(9), one parking stall per 200 square feet of floor area used by the home business. The applicant's plans show a total floor area of 1,300 square feet used for the home office. Therefore, seven parking stalls would be required ( $1300/200 = 6.5$ , rounded up to 7). However, Section 30-8(c)(9) also allows this number to be reduced by one parking stall when associated with a home business, bringing the total number of stalls required for the business to six. In addition, two parking stalls are required for a single-family house per section 30-19(d)(1). As such, a total of eight parking spaces are required for both uses on the property. The

plans submitted by the applicant show four compliant parking stalls on-site. Therefore, the applicant must obtain a waiver from the Board of Aldermen, per 30-8(c)(11)e), to waive four required parking stalls.

4. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-21(a)(2)b)	Allow the alteration of a nonconforming structure to provide for its use in a substantially different manner	S.P. per §30-24
§30-8(c)(11)d)	Locate a home business in a detached accessory building	S.P. per §30-24
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-8(c)(11)e)	Waive four required parking stalls	S.P. per §30-24



**CITY OF NEWTON  
ENGINEERING DIVISION**

**MEMORANDUM**

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 43 Fairmont Avenue

Date: May 26, 2011

CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Alexandria Ananth, Sr. Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*Plan of Land  
43 Fairmont Avenue  
Newton, MA  
Prepared by: Everett M. Brooks Company  
Dated: March 22, 2011*

*Executive Summary:*

An existing detached carriage house is being renovated as a garage and home office, the plans submitted do not indicate if water and sanitary sewer services will be required for the renovation. If the intent is to install both domestic services, the applicant may extend these utilities from the existing dwelling. An updated site plan with proposed water and sewer service connections will be required prior to an approved Building Permit.

The new sewer service and/or structures shall be pressure tested or video taped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. The sewer service will NOT be accepted until one of the two methods stated above is completed. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***

General:

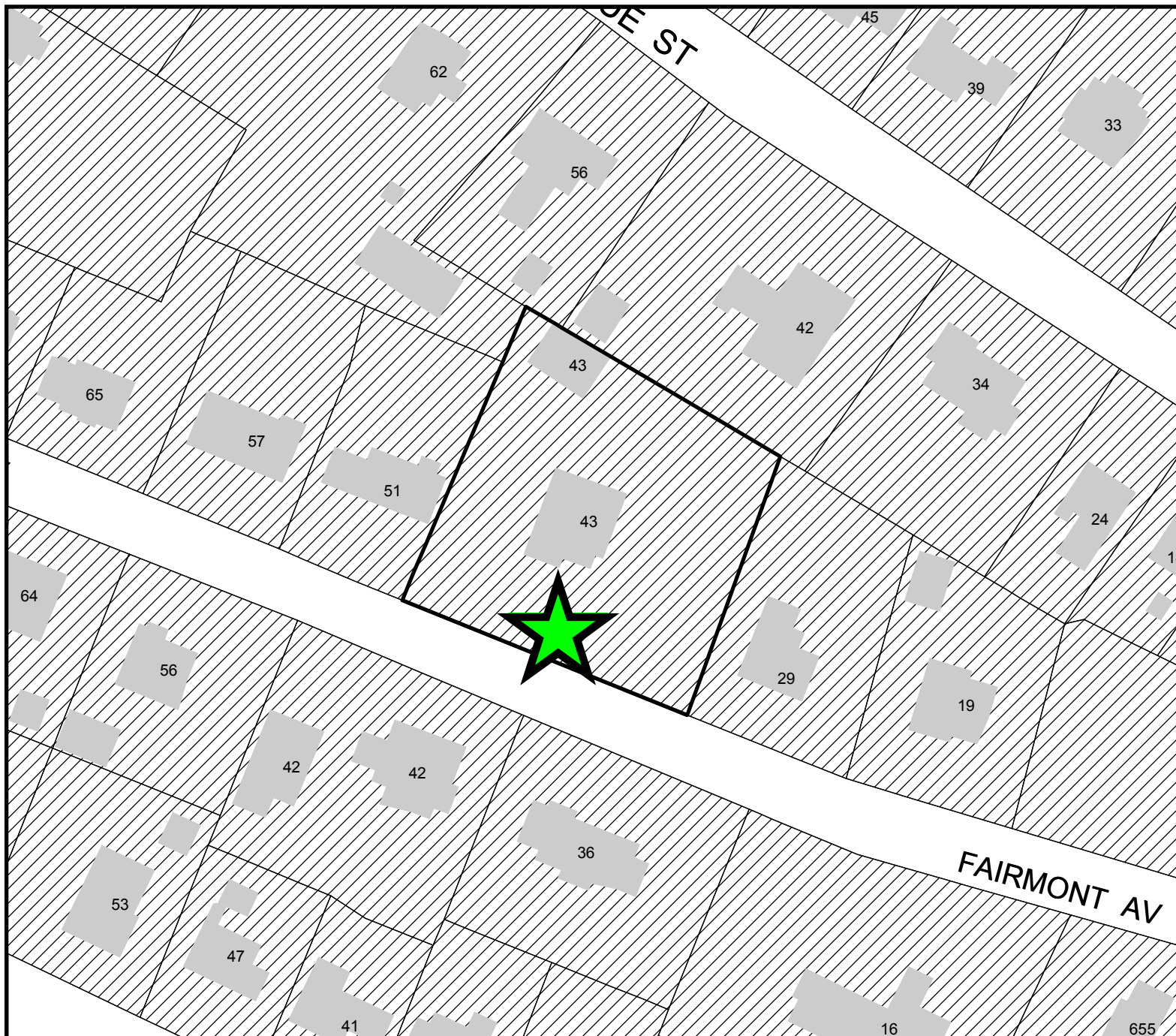
1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans.*
2. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
3. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
4. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
5. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.




If you have any questions or concerns please feel free to contact me @ 617-796-1023.

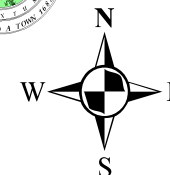
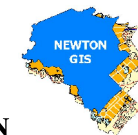
# Zoning Map

43 Fairmont Ave.

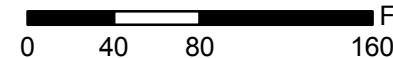


**Legend**

-  43 Fairmont Ave.
-  SR2
-  Building Outlines



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.







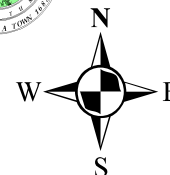
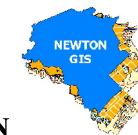
MAP DATE: June 10, 2011

# Land Use Map

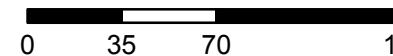
43 Fairmont Ave.

**Legend**

-  43 Fairmont Ave.
-  Building Outlines
-  Single Family Residential
-  Multifamily Residential



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MAP DATE: June 10, 2011





Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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May 23, 2011

Ms. Brona Simon, SHPO & Executive Director  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02125

RE: 43 Fairmont Avenue (Subramanian) Tax Credit Application

Dear Ms. Simon,

At its March 2010 meeting, the Newton Historical Commission voted unanimously to support Mr. Subramanian's application for rehabilitation tax credits to convert his carriage house into office space. Mr. Subramanian's property, historically known as the John Souther House (MHC# NWT.2807), is listed on the National Register of Historic Places. The carriage house compliments the Queen Anne style home on the property and although it has had some alterations, its historic character is still very much intact. Over the past several years, the Commission and preservation staff have noted how vulnerable historic outbuildings buildings are, as they often go unused and degrade to the point of becoming safety hazards. This then negates the usefulness of the demolition delay ordinance and makes their preservation almost impossible. Finding a use for these outbuildings is essential to their survival and we have consistently supported their re-purposing as offices, studios, and accessory apartments.

The Commission continues to offer its support of this project. We hope you will assist Mr. Subramanian in his endeavor. If you have any questions please do not hesitate to ask.

Thank You,

Brian Lever  
Senior Preservation Planner

cc: Guhan Subramanian

April 5, 2010

Ms. Brona Simon, SHPO & Executive Director  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 02125

RE: 43 Fairmont Avenue (Subramanian) Tax Credit Application

Dear Ms. Simon,

At its March meeting, the Newton Historical Commission voted unanimously to support Mr. Subramanian's application for rehabilitation tax credits to convert his carriage house into office space. Mr. Subramanian's property, historically known as the John Souther House (MHC# NWT.2807), is listed on the National Register of Historic Places. The carriage house compliments the Queen Anne style home on the property and although it has had some alterations, its historic character is still very much intact. Over the past several years, the Commission and preservation staff have noted how vulnerable historic outbuildings buildings are, as they often go unused and degrade to the point of becoming safety hazards. This then negates the usefulness of the demolition delay ordinance and makes their preservation almost impossible. Finding a use for these outbuildings is essential to their survival and we have consistently supported their re-purposing as offices, studios, and accessory apartments. We hope you will assist Mr. Subramanian in his endeavor. If you have any questions please do not hesitate to ask.

Thank You,

Brian Lever  
Senior Preservation Planner

cc: Guhan Subramanian

DRAFT  
#150-11

CITY OF NEWTON  
IN BOARD OF ALDERMEN

June 20, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL to locate a home business in an existing detached carriage house and to waive 4 required parking stalls, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman Ted Hess-Mahan:

1. The Board finds that the substantial change of use in a nonconforming structure will not be substantially detrimental to the neighborhood because the home business will be primarily used by the homeowner with rare visits by clients, customers or employees.
2. The Board finds that the use of this historic carriage house structure for a negotiations consulting business is appropriate in this location because:
  - a. The proposed use of the home business as a part-time office will not have significant traffic impacts to the neighborhood;
  - b. The use will allow for the preservation of the historic carriage house by finding an economically viable use for the building.
3. The Board finds that literal compliance with the parking regulations is impracticable and not in the public interest or in the interest of the environment as the use will not demand such required parking stalls.
4. The Board finds that the project has been reviewed and is supported by the Newton Historical Commission.

PETITION NUMBER: #150-11

PETITIONER: Guhan Subramanian

LOCATION: 43 Fairmont Avenue, Ward 1, Newton,  
Section 13, Block 11, Lot 5, and containing approximately  
33,159 sq. ft. of land

OWNER: Guhan Subramanian

ADDRESS OF OWNER: 43 Fairmont Avenue  
Newton, MA

TO BE USED FOR: Negotiations consulting home business in an existing  
carriage house

CONSTRUCTION: Wood frame construction and asphalt shingle roof to  
match existing

EXPLANATORY NOTE: §30-21(a)(2)b), for the alteration of a nonconforming  
structure to provide for its use in a substantially different  
manner; §30-8(c)(11)d), to locate a home business in a  
detached accessory building; §30-8(c)(11)e), to waive four  
required parking stalls; §30-23, for site plan approval; §30-  
24, for approval of special permits

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Land referred to is located in a Single Residence 2 District.

Approved, subject to the following conditions:

1. All buildings, structures, and other site features associated with this special permit shall be located and constructed consistent with the following plans:
  - a. To be inserted later
2. The home business use approved through this Special Permit/Site Plan Approval shall be restricted to a consulting business or similar office use and limited as follows:
  - a. There shall be no more than (1) employee, other than owner, on-site at any given time;
  - b. There shall be no more than one (3) clients present on-site at any given time;
  - c. The detached structure shall not be used as an accessory apartment or as sleeping



quarters, temporary or otherwise.

3. No building permit shall be issued pursuant to this SPECIAL PERMIT/SITE PLAN APPROVAL until:
  - a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL.
  - b. A certified copy of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
  - c. The petitioner shall submit final site plans with proposed water and sewer service connections to the Engineering Division for review and approval.
  - d. The petitioner shall submit final plans to the Fire Department for review and approval.
  - e. Final plans are submitted to the Director of Planning and Development, to assure consistency with the plans approved with the special permit, referenced in Condition #1.
4. The home business use approved by this SPECIAL PERMIT/ SITE PLAN APPROVAL shall not be occupied until the petitioner has:
  - a. filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect or registered engineer certifying compliance with Condition #1.
  - b. submitted to the City Engineer final as-built, record site engineering, utilities, and drainage plans, in digital and paper format, with the latter sealed by a licensed surveyor, prior to the issuance of any final occupancy permits.
  - c. submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - d. filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the final construction details have been constructed to the

standards of the City of Newton Engineering Department.